



# **Agri-Business**

## **General Information**

### **2015**

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Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes. [Click here for more information.](#)



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# Sales Tax Exemption for Agricultural Repair and Replacement Parts

Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes.

- **LB 96 (2014)**
- **News Release** (09/30/2014)
- **Information Guide: Agricultural Machinery and Equipment Sales Tax Exemption**
- **Nebraska Resale or Exempt Sale Certificate, Form 13**

The purchaser must issue to the seller a properly completed Form 13, Section B, exempt category 2, to exempt the purchase from tax.

- **Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1**
- **Nebraska Sales Tax Exemption Chart**
- **Reg-1-094, Agricultural Machinery and Equipment Refund**

# Today's Agenda

- Overview of Sales and Use Tax
- Agricultural Machinery and Equipment
- Repair and Replacement Parts
- Personal Property Tax
- Contractor Issues
- Purchases That Do Not Qualify
- Agricultural Feed, Seeds and Plants, Medicines, and Chemicals
- Water and Energy Source Utility Exemption
- Summary of Commercial Ag Purchases

# **Overview of Sales and Use Tax**

## Sales tax is...

- ... a transactional tax,
- ... based on the transaction,
- ... rather than the item sold.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

## A sale is...

- ... the transfer of title or possession,
- ... of an item or taxable service,
- ... for consideration.

# **A lease or rental of tangible personal property...**

...can be a sale,

...if there is transfer of possession.

Sales tax is due on each  
lease or rental payment.

# The Bottom Line for Sales Tax

Sellers must collect sales tax  
or  
document why they did not.

# What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
  - Sales tax is collected and remitted by the seller.
  - Use tax is paid directly to the Department by the purchaser/consumer.

# Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
  - Where delivery occurs or
  - Where first usage in Nebraska takes place.

# When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
  - Internet, catalog, mail order
  - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
  - Auto mechanic
  - Hair salon

Note: Be sure to maintain good records!

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# **Agricultural Machinery and Equipment**

Purchases of ag equipment are sales and use tax exempt when all three of these criteria are met (refer to [Reg-1-094](#)):

- The item is used directly in commercial agriculture;
- The item meets the definition of ag equipment; and
- The purchaser properly completes a [Form 13](#), Section B.

# Commercial agriculture is:

- Producing food products or other useful and valuable crops;
- or
- Raising or caring for animals.

The crops or animals can either be sold or used by the farmer/rancher to produce other products for sale.

Commercial agriculture also includes commercial production in:

- Feedlots;
- Greenhouses;
- Nurseries;
- Sod farms; and
- Tree farms.

Commercial agriculture does not include:

- Animals in sale barns;
- Animals in stockyards;
- Storage of products in commercial elevators; or
- Storage of products off the farm.

## Ag equipment:

- Must be depreciable tangible personal property, even if the owner chooses not to depreciate it for income tax purposes;
- Has a determinable life of more than 1 year; and
- Is used in commercial agriculture for the production of income.

- Leases of qualified ag equipment are exempt from sales and use taxes when used directly in commercial agriculture.
- The lessee must give a [Form 13](#), Section B to the lessor.

## Ag equipment does not include:

- Real estate;
- Licensable motor vehicles, trailers, and semi-trailers;
- Equipment used in processing at a commercial facility;
- Well drilling equipment;
- Office equipment; or
- Other non-qualifying equipment.

Qualified ag equipment is exempt from sales and use taxes when purchased at an auction...

...provided the purchaser gives the auctioneer a properly completed [Form 13](#), Section B, Category 2.

# Form 13, Section B



## Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

• Read instructions on reverse side/see note below

**RESET FORM**

FORM  
**13**

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing Address			Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code

### Check Type of Certificate

☐ Single Purchase



Blanket

If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One



Purchase for Resale (Complete Section A)



Exempt Purchase (Complete Section B)



Contractor (Complete Section C)

## SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category **2** (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of Item(s) Purchased **farm machinery, repair  
and replacement parts**

Intended Use of Item(s) Purchased **commercial agriculture**

If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold

Date of Seller's Original Purchase

Was Tax Paid when Purchased by Seller?



YES



NO

Was Item Depreciable?



YES



NO


For more information, see [Form 13 instructions](#).

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# **Repair and Replacement Parts for Ag Equipment**

- Effective October 1, 2015, all repair and replacement parts are exempt if both criteria are met
  - The property repaired is agricultural machinery and equipment
  - The equipment is used in commercial agriculture
- Farmers or ranchers must issue a Form 13, Section B, Category 2 to exempt these sales.
- Repair labor is sales tax exempt

# Form 7AG-1



nebraska  
department  
of revenue

**Nebraska Sales and Use Tax Refund Claim**  
for Agricultural Machinery and Equipment Purchases or Leases

**RESET**

- Read instructions on reverse side
- Type or print clearly

**FORM**  
**7AG-1**

**Federal Employer I.D. or Social Security Number**

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**NAME AND MAILING ADDRESS OF PURCHASER/LESSEE**

Name County where property will be located for property taxation (a copy of this claim will be forwarded to the appropriate county assessor and all property listed herein will be subject to personal property taxation)

Street or Other Mailing Address

City State Zip Code

If leased, will this property be leased or rented for less than one year?  
☐ YES ☐ NO

QUALIFYING AGRICULTURAL MACHINERY AND EQUIPMENT					
Description of Property (List Each Item Separately)	Date Purchased/ Leased Mo. Day Yr.	Net Purchase/ Lease Price \$	Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid \$	Nebraska Sales and Use Tax Paid \$
1					
2					
3					
4					
5					
6 Total local sales and use tax paid.....				6	\$
7 Total Nebraska sales and use tax paid.....				7	\$
8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will be made if the total amount claimed is less than \$2.00.....				8	\$

I declare, under penalties of law, that I have examined this claim, and to the best of my knowledge and belief, it is correct and complete.  
 I also declare that payment of this claim has not been previously made by the state, nor have I claimed or received a refund from the retailer.

**sign here**

Signature of Purchaser, Lessee, or Agent

Printed Name

( )

Telephone Number

Date

For more detailed information, refer to the [Form 7AG-1 instructions](#).

# Form 7AG-1 (continued)

## ACTION TAKEN BY THE NEBRASKA DEPARTMENT OF REVENUE

- ☐ APPROVED
- ☐ APPROVED AS REVISED, SEE COMMENTS OR LETTER DATED \_\_\_\_\_
- ☐ DISAPPROVED, SEE COMMENTS OR LETTER DATED \_\_\_\_\_

COMMENTS: \_\_\_\_\_

## AMOUNTS APPROVED

Purchase/Lease Price		Code	Local Sales and Use Tax Paid		Nebraska Sales and Use Tax Paid	
1	\$		\$		\$	
2						
3						
4						
5						
			6	\$		
					7	\$
					8	\$

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Mail this claim and supporting documentation to: NEBRASKA DEPARTMENT OF REVENUE, P.O. BOX 98903, LINCOLN, NE 68509-8903

IF PROPER DOCUMENTATION IS NOT INCLUDED, YOUR CLAIM CANNOT BE PROCESSED.

Visit our Web site [www.revenue.ne.gov](http://www.revenue.ne.gov) or call 1-800-742-7474 (toll free in NE and IA) or 1-402-471-5729.

NEBRASKA DEPARTMENT OF REVENUE — White Copy

TAXPAYER — Retain canary copy for your income tax records

6-343-1993 Rev. 9-2005  
Supersedes 6-343-1993 Rev. 3-2005

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# Personal Property Tax

# Personal Property Tax

- All depreciable ag equipment must be reported for personal property tax purposes, even if sales tax is paid on the item.
- Property tax is not related to sales tax.

Refer to  
Sales and Use Tax [Regulation 1-094.05](#) –  
Agricultural Machinery and Equipment Refund, and  
[Personal Property](#) on the Property Assessment website  
for additional information.

- All depreciable tangible personal property owned as of January 1 at 12:01 a.m. each year must be reported.
- A [Nebraska Personal Property Return](#) is filed with the county assessor.
- The return must be filed each year on or before May 1.

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# Contractor Database

- Every construction contractor making payment to a [subcontractor](#) must withhold 5%;
- Unless the subcontractor is registered in the [Department of Labor's Contractor Registration Database](#).

- A single definition of “contractor” is used for purposes of the Contractor Registration Act and construction contractor withholding. (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the [Contractor Database](#).



SIZE +/-

LANGUAGES

HOME



### for **Workers**

File for Unemployment  
Search for Jobs  
Veteran Services  
Learn About Training  
File A Wage Complaint  
Find Career Fairs

### for **Employers**

File Unemployment Taxes  
Hire Workers  
Train Employees  
Get Tax Credits  
Contractor Registration  
Employee Classification

### get **Answers**

Find Our Offices  
Labor Market Information  
E-Verify  
Workplace Safety  
Workforce Investment Act  
Unemployment Appeals

### CURRENT INFORMATION

#### August Unemployment Rates

Nebraska: 3.6%











National: 6.1%

Next Release Date:  
September Rates Oct. 17 at  
9:00 AM

[Learn More](#)

<- Page 1/13 ->

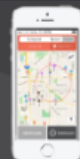
### ACCESS OUR TOOLS

-  [NEworks](#)
-  [Claim Benefits Online](#)
-  [Guide to Unemployment](#)
-  [UIConnect](#)
-  [Contractor Registration](#)
-  [Wage Complaint Form](#)
-  [InternNE](#)
-  [TrainingLink](#)
-  [NELearn](#)
-  [Assessment Tools](#)



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 [LAWS, FORMS & PUBLICATIONS](#)

 [VETERAN SERVICES](#)

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# Contractor Issues

# **When Work on Ag Equipment Involves Charges for Contractor Labor**

- Contractor labor is sales tax exempt; and
- The contractor option chosen determines taxability of purchases of ag equipment or any repair parts.

# Option 1 Contractor

- Transactions with the Supplier
  - The Option 1 contractor can purchase building materials and fixtures sales tax exempt for resale.
  - They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the Farmer/Rancher
  - The Option 1 contractor must collect sales tax on separately stated charges for building materials and fixtures unless...
  - A properly completed Form 13, Section B, Category 2, is obtained for qualified agricultural machinery and equipment (for example, a stirrator in a grain bin).

## Option 2 Contractor

- Transactions with the Supplier
  - The Option 2 contractor pays sales or use tax on its purchase of building materials and fixtures.
- Transactions with the Farmer/Rancher
  - The Option 2 contractor does not collect sales tax on any portion of the invoice and cannot accept a Form 13.

## Option 3 Contractor

- Transactions with the Supplier
  - The Option 3 contractor buys building materials and fixtures sales tax exempt.
  - They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the Farmer/Rancher
  - The Option 3 contractor must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
  - They do not collect sales tax on any portion of the invoice and cannot accept a Form 13.

# Form 13, Section C



## Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

• Read instructions on reverse side/see note below

**RESET FORM**

FORM  
**13**

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing Address			Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code

**Check Type of Certificate**

☐ Single Purchase

☐ Blanket

If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

**I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:**

**Check One**    ☐ Purchase for Resale (Complete Section A)    ☐ Exempt Purchase (Complete Section B)    ☐ Contractor (Complete Section C)

### SECTION C—For Contractors Only

**1. Purchases of Building Materials or Fixtures:**

☐ As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-

**2. Purchases Made Under Purchasing Agent Appointment on behalf of \_\_\_\_\_:**  
(exempt entity)

☐ Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.

For more detailed information, refer to the  
[Form 13 instructions](#) and [Reg-1-017](#), Contractors.

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# **Purchases That Do Not Qualify**

# **Buildings and Most Structures Do Not Qualify for the Ag Equipment Exemption**

- Concrete feed bunks do not qualify if they are permanently attached.
- Barns and outbuildings do not qualify.
- Grain bins do not qualify.
- However, the stirrator in the grain bin does qualify for the exemption.

# **Ag Feed, Seeds and Plants, Medicines, and Chemicals**

For Qualifying Animals, Non-qualifying Animals, & Crops

# Qualifying Animals

Feed, seeds and plants, medicines, chemicals, and water for animal life that produce food and clothing (qualifying animals) can be purchased sales tax exempt.

Examples (include, but are not limited to) -

- Bees
- Cattle
- Chickens
- Game birds
- Sheep
- Swine
- Turkeys

# Non-qualifying Animals

Feed, seeds and plants, medicines, chemicals, and water for animals that do not produce food (non-qualifying animals) are subject to sales tax.

Examples (include, but are not limited to) -

- Domesticated elk and deer
- Horses, donkeys, mules, and work animals
- Ostriches and emus
- Pets (birds, cats, dogs, etc.)

This includes any non-food producing breeding stock.

# **Purchases of Feed Used in the Caring for Qualifying Animals are Sales Tax Exempt**

Examples -

- Hay
- Grit
- Minerals and vitamins
- Salt blocks
- Silage

# **Purchases of Seeds and Plants for Use in Commercial Agriculture are Sales Tax Exempt**

Seeds and plants are sales tax exempt when used in commercial agriculture by -

- Greenhouses
- Nurseries
- Tree farms

# **To Buy Seeds and Plants Sales Tax Exempt for Use in Commercial Agriculture**

- Complete [Form 13](#), Section B, Category 2, and give it to your seller.

# Cover Crop Seeds

Cover crop seeds, when purchased by a person engaged in commercial agriculture, are tax exempt when the cover crop:

- Contributes to the production of the land
  - Soil fertility
  - Soil quality

Cover crop seeds, when purchased by a person engaged in commercial agriculture, are not tax exempt when used for:

- Ground that has been taken out of production
- Erosion control purposes

# **Seeds and Plants Cannot Be Purchased Sales Tax Exempt When Used for the Following Planting Purposes**

- Residential or commercial lawns
- Private ornamental gardens
- Private golf courses
- Seed for land that is removed from production

# Veterinary Medicines

Purchases of veterinary medicines are sales tax exempt when used for:

- Prevention or treatment of disease of qualifying animals; and
- Treatment of the injuries of qualifying animals.

Examples (include, but are not limited to) -

- Drugs
- Antibiotics
- Antitoxins

# Drugs

Drugs for human use are tax exempt when prescribed in writing by a physician or dentist

- Drugs can be either dispensed by a pharmacist or administered by a health care professional
- Refilling a prescription

Over-the-counter drugs for human use are taxable when purchased

- With or without prescription

## **Bottom Line for Drugs**

Prescription drugs filled by a pharmacy or administered by a health professional for human use are tax exempt.

Prescription drugs filled by a pharmacy for animals that are not raised for food (for example, dogs or cats) are taxable.

# Ag Chemicals for Animals

When ag chemicals are used for these commercial ag purposes, they are sales tax exempt:

- Controlling pests of qualifying animals;
  - Pesticides
  - Insecticides

or

- Affecting a qualifying animal's growth.
  - Growth-regulating chemicals and hormones

# Ag Chemicals for Crops

Ag chemicals applied to land or crops in commercial agriculture may be purchased sales tax exempt.

Exempt examples include -

- Fertilizers
- Fungicides
- Herbicides
- Insecticides

# When To Use Form 13 for the Ag Exemption

A Form 13 is required when the product can be used in the treatment and care of both:

- Qualifying; and
- Non-qualifying animals.

A Form 13 is not required when the product is labeled by the manufacturer as solely to be used for treatment or care of qualifying animals.

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# **Water and Energy Source Utility Exemption**

# Water Used for Ag Purposes

Water is sales tax exempt when more than 90% of the water billed through the meter is used for one or more of the following tax exempt purposes:

- Irrigation of agricultural lands; or
- Care for qualifying animals.

A [Form 13](#) must be issued to the utility when claiming this exemption, unless the utility assigns a formal usage classification.

# Energy Source Utility Exemption

A qualified energy source is sales tax exempt when more than 50% of the energy is used for:

- Commercial feed grinding;
- Commercial grain drying;
- Farming; or
- Irrigation.

To purchase energy sources sales tax exempt, give a [Form 13E](#) to the seller.

Refer to Sales and Use Tax Regulation [1-089](#)  
Energy Source Utility Exemption, for more information.


- Example of Qualified Use

The electricity billed through a single meter at a hog confinement building qualifies (more than 50% rule).

- Example of Nonqualified Use

The energy used in the farmer/rancher's repair shop is taxable.

# Form 13E

 <b>Nebraska Department of REVENUE</b>	<b>Nebraska Energy Source Exempt Sale Certificate</b>	<div style="background-color: yellow; border: 1px solid black; padding: 2px; display: inline-block;">RESET FORM</div> <b>FORM 13E</b>
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <b>NAME AND MAILING ADDRESS OF PURCHASER</b> </div> <div style="width: 48%;"> <b>NAME AND MAILING ADDRESS OF SELLER</b> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Name _____   Street or Other Mailing Address _____   City _____ State _____ Zip Code _____ </div> <div style="width: 48%;"> Name _____   Street or Other Mailing Address _____   City _____ State _____ Zip Code _____ </div> </div>		
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If Blanket is checked, this certificate is valid until revoked in writing by the purchaser.		
Purchaser's Account Number _____		Was an energy audit (analysis) completed prior to issuing this certificate to the seller? <input type="checkbox"/> YES <input type="checkbox"/> NO
Describe your business operations: _____  		
<input type="checkbox"/> A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) _____ has been properly determined to be used or directly consumed in: (check appropriate box) <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Manufacturing and Processing</div> <div style="width: 30%;"><input type="checkbox"/> Farming</div> <div style="width: 30%;"><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Irrigation</div> <div style="width: 30%;"><input type="checkbox"/> Refining</div> <div style="width: 30%;"></div> </div>		
<input type="checkbox"/> B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebraska sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriate box) <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Manufacturing and Processing</div> <div style="width: 30%;"><input type="checkbox"/> Farming</div> <div style="width: 30%;"><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Irrigation</div> <div style="width: 30%;"><input type="checkbox"/> Refining</div> <div style="width: 30%;"></div> </div>		
<p>Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is not otherwise exempted from the sales and use tax under the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under the penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.</p>		
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;"> <div style="display: flex; align-items: center;"> <div style="font-size: 24pt; font-weight: bold; margin-right: 5px;">sign here</div> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> </div> <div style="font-size: 10pt; margin-top: 5px;">Authorized Signature of Purchaser</div> </div> <div style="width: 30%;"> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> <div style="font-size: 10pt; margin-top: 5px;">Title</div> </div> <div style="width: 20%;"> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> <div style="font-size: 10pt; margin-top: 5px;">Date Issued</div> </div> </div>		

For more detailed information, refer to the [Form 13E instructions](#).

# **Summary of Commercial Ag Purchases**

# Recognize What is Taxable and Know How to Document What is Tax Exempt.

- Ag equipment exemption [Form 13, Section B](#)
- Other equipment **Taxable**
- Building and structures **Taxable**
- Manufacturer-labeled ag seed **Exempt, no form required**
- Other seed **Taxable**

# Recognize What is Taxable and Know How to Document What is Tax Exempt.

- Dual use chemicals [Form 13, Section B](#)
- Manufacturer-labeled ag chemicals **Exempt, no form required**
- Other chemicals **Taxable**
- Ag medicines & feed [Form 13, Section B](#)
- Non-ag medicines & feed **Taxable**
- Energy source exemption [Form 13E](#)
- Water exemption [Form 13, Section B](#)



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**Steve Drzaic**

**402-595-2078**

**[steve.drzaic@nebraska.gov](mailto:steve.drzaic@nebraska.gov)**

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